

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Erin Drakeley et al.	Art Unit :	3692
Serial No. :	09/371,687	Examiner :	Elda G. Milef
Filed :	August 10, 1999	Conf. No. :	9542
Title :	PROVIDING ONE PARTY ACCESS TO AN ACCOUNT OF ANOTHER PARTY		

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SUPPLEMENT TO BRIEF ON APPEAL

In response to the Notification of Non-Compliant Appeal Brief mailed July 30, 2008, Applicant submits the following replacement sections of the Brief on Appeal filed July 21, 2008.

**(3) Status of Claims**

Claims 83-109 are pending and on appeal. Of these claims, 83, 92 and 101 are independent. Claims 1-82 were cancelled earlier in prosecution.

**(6) Grounds of Rejection to be Reviewed on Appeal**

- Claims 83-85, 88, 90-94, 97, 99-103, 106, and 108-109 stand rejected as being rendered obvious under 35 USC 103 by the combination of *Roberts*, U.S. Patent No. 6,754,693 and *Ellmore*, U.S. Patent No. 7,058,817.

The following additional rejections were made in the Final Action. However, Applicant has not presented arguments specific to these rejections. Accordingly, the following grounds for rejection are not presented for review.

- Claims 86, 95, and 104 stand rejected as being rendered obvious under 35 USC 103 by the combination of *Roberts*, *Ellmore*, and *Fin*, US Patent No. 6,240,444.
- Claims 87, 96, and 105 stand rejected as being rendered obvious under 35 USC 103 by the combination of *Roberts*, *Ellmore*, *Fin* and *Northington*, U.S. Patent No. 6,128,602.

- Claims 89, 98, and 107 stand rejected as being rendered obvious under 35 USC 103 by the combination of *Roberts*, *Ellmore*, and *Parker*, U.S. Patent No. 5,729,734.

## **(7) Argument**

### ***Roberts*<sup>1</sup>**

*Roberts* teaches a system in which two participants view the same content on two different browsers **18, 28**. To cause this to happen, each participant downloads an applet **22, 30** from a server **20**. *Roberts* discloses two kinds of applets: a user applet **22**, and a service applet **30**. Examples of service applets **30** include an administrator applet and a sales applet.

Since different participants receive different applets, some way must be provided to enable the server **20** to know which applet **30** to provide to a requesting participant. *Roberts* achieves this by recognizing the appropriate applet on the basis of a name and password provided by the requesting participant.

### ***Ellmore*<sup>2</sup>**

As a threshold matter, *Ellmore* '817 itself is not prior art because Applicant's priority date of August 10, 1999 precedes *Ellmore*'s filing date of June 30, 2000. What is prior art is U.S. provisional application 60/142,118, filed on July 2, 1999. The content of U.S. provisional application 60/142,118 differs significantly from that of U.S. Application No. 09/608,851, which matured into *Ellmore* '817. Accordingly, to the extent the Examiner relies upon subject matter in 09/608,851 that was not in 60/142,118, the rejection would be relying on subject matter that is not prior art.

In rejecting the claim, the Examiner does not specifically identify what portion of *Ellmore* '817 is relied upon. Hence, it is not possible to determine whether the Examiner relies upon subject matter disclosed in 60/142,118.

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<sup>1</sup> *Roberts*, U.S. Patent No. 6,754,693.

<sup>2</sup> *Ellmore*, U.S. Patent No. 7,058,817.

*Ellmore* '817, which is assigned to Chase Manhattan Bank, teaches a system for allowing a user to access any one of his own bank accounts using a single password. However, *Ellmore* '817 does not disclose allowing a user to use his password to view *other people's* bank accounts.

The provisional application 60/142,118 describes the functions of a system administrator at section 1.8, entitled "Customer Support Functions."<sup>3</sup> These functions include re-setting passwords, adding or deleting users, and adding or deleting accounts. Completely absent is any suggestion that the administrator can view a user's actual account. In fact, the importance of ensuring a user's privacy is implicit in section 1.8.1.1 which states that "Chase's policy is to prevent any human...from seeing user passwords."<sup>4</sup>

**Section 103 Rejection of claims 83-85, 90-94, 97, 99-103, 106, and 108-109 based on *Roberts* and *Ellmore***

The Examiner rejected claims 83-85, 88, 90-94, 97, 99-103, 106, and 108-109 as being rendered obvious by *Roberts* and *Ellmore*.

Applicant presents arguments for claims 83, 92, and 101 below, under the following subheading identifying the claims by number as required by Rule 41.37(c)(1)(vii). Applicant presents arguments for claims 85, 94, and 103 below, under another subheading that identifies those claims by their number as required by Rule 41.37(c)(1)(vii).

**ARGUMENTS FOR THE PATENTABILITY OF CLAIMS 83, 92, and 101**

The Examiner concedes *Roberts'* failure to teach the limitation of

"on the basis of the pretender identification information and the account identifier, verifying that the pretender is authorized to access the account [*of the particular party*];"

In examining the foregoing limitation, it is important to observe that the pretender is using *his own* identification information to access *someone else's* account. The pretender is *not* using his own identification information to access *his own* account.

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<sup>3</sup> USSN 60/142,118, page 57.

<sup>4</sup> USSN 60/142,118, page 58.

**Motivation to combine references is flawed**

Applicant recognizes that one of ordinary skill in the art would have found it obvious to use one's own password to inspect *one's own* account. But the idea of using one's own password to inspect *someone else's account* defies common sense. Doing so would negate the purpose of a password.

Nevertheless, the Examiner suggests that one of ordinary skill in the art would have found it obvious to modify *Roberts* to allow a user to use his own validation code to access *not his own account* but *someone else's* account.

As a basis for modifying the primary reference, the Examiner states that one of ordinary skill in the art would have found it obvious "to modify *Roberts* to explicitly include receiving an account identifier such as an account number as evidence by *Ellmore* in order to provide secure online access to personal information."<sup>5</sup>

But in fact, one of ordinary skill in the art would have recognized immediately that allowing one user to inspect an account belonging to another would undermine the ability "to provide secure online access to personal information." In fact, the proposed modification would have struck one of ordinary skill in the art as an invitation to invade another's privacy.

Accordingly, Applicant suggests that one of ordinary skill in the art would never have modified *Roberts* to allow a non-user applet 30 to actually gain access to an account belonging to a customer who uses the user applet 22 since to do so would only serve to invade the privacy of the customer who uses the user applet 22.

***Ellmore* fails to teach allowing inspection of other people's accounts**

As discussed above, *Ellmore* teaches a system in which a bank's customer uses a single password to access all his bank accounts. *Ellmore* does not teach using a password to access bank accounts belonging to *other* bank customers.

Hence, even if one were to somehow combine *Ellmore* with *Roberts*, the result would still lack the limitation of "on the basis of the pretender identification information and the

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<sup>5</sup> *Office Action*, page 4.

account identifier, verifying that the pretender is authorized to access the account [*of the particular party*].”

***Roberts* fails to teach receiving information selecting an application.**

As best understood, the Examiner regards the user who receives the user applet 22 as corresponding to claim 83’s “particular party,” and the user who receives one of the service applets 30 as corresponding to claim 83’s “pretender.” With this in mind, it appears that the Examiner has mapped the first few claim limitations as follows:

receiving, through a first web page generated by first code, pretender identification information associated with a pretender;	At <i>Roberts</i> col. 11, lines 7-16, the “validation code” and/or the user ID and password is the “pretender identification information”
using the pretender identification information to identify a set of applications available to the pretender;	Col. 12, lines 17-25 of <i>Roberts</i> list several views, each having a corresponding applet. These applets comprise the “set of applications available to the pretender.”
receiving, through a second web page generated by the first code, information selecting an application from the set of applications, and an account identifier representative of an account of the particular party;	Allegedly disclosed by the same passage that discloses step [a] and the same passage that discloses step [b]

It is apparent that the proposed mapping from *Roberts* to claim 83 begins to unravel at the second “receiving” step.

*Roberts* discloses receiving identification information and using that identification information to identify a particular applet. This is presumably regarded as “using the pretender information to identify a set of applications available to the pretender,” at least where the “set of applications” consists of only the one applet.

But if this is the case, then the step of “receiving, through a second web page...information selecting an application from the set of applications” cannot be met. With only one applet available for a particular pretender ID, there would never be a need for a selection step. In effect, the identification information provided by the user *has already selected* an applet.

In *Roberts*, once server 20 identifies the participant, it downloads a particular applet corresponding to that participant. *Roberts* does not invite a participant to choose an applet from a set of available applets. The applet *has already been* selected

Furthermore, *Roberts* fails to teach anything remotely resembling “receiving, through a second web page, an account identifier representative of an account of the particular party.”

According to Applicant's specification, an “account” means “any type of investment account.”<sup>6</sup> There is nothing in *Roberts* that corresponds to an “account” as Applicant, acting as his own lexicographer, has defined it.

At best, *Roberts* teaches receiving a password associated with a particular session. This is similar to the password one might provide to join a telephone conference. Such a password is not “representative of an account of the particular party.” It is simply a password for joining a transitory session.

Claims 92 and 101 include limitations similar to claim 83 and are patentable for at least the same reasons. Claims 84-91, 93-100, and 102-109 all depend on their respective independent claims and are patentable for at least the same reasons.

What follows is another subheading as required by Rule 41.37(c)(1)(vii) to mark the beginning of arguments for the patentability of claims 85, 94, and 103.

#### **ARGUMENTS FOR THE PATENTABILITY OF CLAIMS 85, 94, AND 103**

Claim 85 recites the additional limitation of

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<sup>6</sup> Specification, page 6, lines 5-6.

“providing to a computing system associated with the pretender, the retrieved access information for storage in an access information field of a text file associated with a session of the pretender”

The Examiner suggests that *Roberts* discloses this limitation somewhere between col. 11, line 1 and col. 12, line 35. However, there is no reference to any text file in the cited text. Hence, it is not clear what the Examiner could possibly regard as corresponding to “an access information field of a text file associated with a session of the pretender.”

Claims 94 and 103 include limitations similar to claim 85 and are patentable for at least the same reasons.

Accordingly, even if one were to combine the references, the resulting combination would fail to teach providing anything “for storage in an access information field of a text file associated with a session of the pretender” as required by claim 85.

### Conclusion

No fees are believed to be due in connection with the filing of this Supplemental Brief on Appeal. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 06-1050, referencing Attorney Docket No. 08575-048001.

Respectfully submitted,

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Faustino A. Lichauco  
Reg. No. 41,942

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (877) 769-7945